

**UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CASE NO. 3:09-cv-2-RJC**

**VERONICA HARRIS and NIQUAE)
HARRIS,)
)
Plaintiffs,)
)
 vs.)
)
)
**AMERICAN HOME MORTGAGE)
ACCEPTANCE, INC., and AMERICAN)
HOME MORTGAGE SERVICING,)
INC.,)
)
Defendants.)****

THIS MATTER comes before the Court on pro se Plaintiffs' Motion for Temporary Restraining Order. (Doc. No. 3). On January 5, 2009, Plaintiffs filed a Motion for a Temporary Restraining Order, seeking to enjoin the Defendants from continuing the foreclosure process and evicting Plaintiffs from their home. Plaintiffs advised the Court that eviction is to occur on the same day they filed the instant motion.

Federal Rule of Civil Procedure 65(b) provides that this Court may issue a temporary restraining order without notice to the adverse party or its attorney only if the following conditions are met:

[S]pecific facts in an affidavit or a verified complaint clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition; and the movant's attorney certifies in writing any efforts made to give notice and the reasons why it should not be required.

Fed. R. Civ. P. 65(b)(1)(A) & (B). Since Plaintiffs stand to lose their home if the foreclosure proceeding continues, the Court finds likelihood of irreparable harm to Plaintiffs if injunctive relief is denied. However, Plaintiffs have not complied with the second requirement of Rule 65 which

requires certification in writing of any efforts made to give notice and the reasons why it should not be required. Consequently, Plaintiffs' Motion for Temporary Restraining Order must be denied.

IT IS, THEREFORE, ORDERED that Plaintiffs' Motion for Temporary Restraining Order is hereby **DENIED** without prejudice.

The Clerk shall mail a copy of this Order to the Plaintiffs at 8736 Field Croft Drive, Charlotte, North Carolina 28277.

Signed: January 9, 2009



Robert J. Conrad, Jr.
Chief United States District Judge
